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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/716,052	11/17/2000	Jonah Peskin	1852-1-3	7616

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EXAMINER

DETWILER, BRIAN J

ART UNIT	PAPER NUMBER
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2173

DATE MAILED: 10/24/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

14

Office Action Summary

Application No.

09/716,052

Applicant(s)

PESKIN ET AL.

Examiner

Brian J Detwiler

Art Unit

2173

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-71 is/are pending in the application.
- 4a) Of the above claim(s) 1-56 is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 57-71 is/are rejected.
- 7) ☒ Claim(s) 67-71 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

DETAILED ACTION

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-56, drawn to dedicated audio/video keys, classified in class 345, subclass 727.
- II. Claims 57-71, drawn to determining short-range versus long-range key presses, classified in class 345, subclass 169.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility since it can be used with any combination of keys, which are not necessarily dedicated to audio or video functions. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Group II, restriction for examination purposes as indicated is proper.

During a telephone conversation with Jeffrey Haley on 29 September 2003 a provisional election was made without traverse to prosecute the invention of II, claims 57-71. Affirmation of this election must be made by applicant in replying to this Office action. Claims 1-56 are withdrawn from further consideration by the examiner, 37 CFR 1.142(b), as being drawn to a non-elected invention.

Claim Objections

Claims 67-71 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, amend the claim to place it in proper dependent form, or rewrite the claim in independent form. The examiner suggests that Applicant rewrite claim 67 to place it in independent form.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 57-71 are rejected under 35 U.S.C. 102(e) as being clearly anticipated by U.S.

Patent No. 6,313,851 (Matthews, III et al).

Referring to claim 57, Matthews discloses in column 9: lines 57-67 through column 10: lines 1-7, multiple modes of operation for a computing device. The first mode is a "PC mode", which operates in a conventional fashion by accepting input from a local keyboard. The second mode is a "theater mode", which operates via a remote control. Matthews further explains in this section that the applications operating on the computing device are informed of what mode the device is operating in. A user can further select the current operating mode by simply pressing a key on the desired input device. If the user presses a key on the keyboard, then the device enters PC mode, while if the user presses a key on the remote control, the device enters theater mode.

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The device thus provides each application with an indication of whether or not a key event was generated on a remote keypad.

Referring to claim 58, Matthews discloses in column 12: lines 26-41 the process for exchanging mode information between different layers of the processing system. Matthews explains that the applications reside in the application layer, while the available operating modes reside in the mode layer. The mode selector receives key event data from both the local and remote keypads in order to select the current mode, and then mode control passes the selected mode to the applications. While Matthews does not specifically refer to the mode layer, mode selector, and mode control as a key event data server program, these modules clearly operate between the user and the application. Furthermore, since these modules behave similarly to said key event data server program, they can consequently be classified as such.

Referring to claim 59, Matthews discloses in column 4: lines 27-38 that it is the operating system that supports the ability to switch between the two user interface modes. Accordingly, the control program is an operating system program.

Referring to claim 60, Matthews discloses in column 3: lines 48-51 that an application suitable for the present invention is a CD player program.

Referring to claim 61, Matthews discloses in column 12: lines 54-67 through column 13: lines 1-11 that the applications behave differently depending on the source of the key events. Matthews explains that while in theater mode, the size of a selected item in an application menu can be changed to better distinguish that item. While operating in PC mode, however, the same menu would behave in a conventional manner.

Referring to claims 62 and 67, as mentioned above with regard to claim 57, Matthews discloses a PC mode and a theater mode of operation for a computing device, wherein the device informs applications of what mode it is currently operating in and indicates whether or not key event data was generated on a remote keypad. Matthews further explains in column 12: lines 54-67 through column 13: lines 1-11 that the applications behave differently depending on the source of the key events. For example, Matthews discloses that while in theater mode, the size and/or color of a selected item in an application menu can be changed to better distinguish that item. While operating in PC mode, however, the same menu would behave in a conventional manner.

Referring to claims 63 and 68, Matthews discloses in column 12: lines 26-41 the process for exchanging mode information between different layers of the processing system. Matthews explains that the applications reside in the application layer, while the available operating modes reside in the mode layer. The mode selector receives key event data from both the local and remote keypads in order to select the current mode, and then mode control passes the selected mode to the applications. While Matthews does not specifically refer to the mode layer, mode selector, and mode control as a key event data server program, these modules clearly operate between the user and the application. Furthermore, since these modules behave similarly to said key event data server program, they can consequently be classified as such.

Referring to claims 64 and 69, Matthews discloses in column 4: lines 27-38 that it is the operating system that supports the ability to switch between the two user interface modes. Accordingly, the operating system program provides key event data and an indication of the current operating mode to the applications.

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Referring to claims 65 and 70, Matthews discloses in column 3: lines 48-51 that an application suitable for the present invention is a CD player program.

Referring to claims 66 and 71, Matthews discloses in column 12: lines 54-67 through column 13: lines 1-11 that the applications behave differently depending on the source of the key events. Matthews explains that while in theater mode, the size of a selected item in an application menu can be changed to better distinguish that item. While operating in PC mode, however, the same menu would behave in a conventional manner.

Conclusion

The prior art made of record on form PTO-892 and not relied upon is considered pertinent to applicant's disclosure. Applicant is required under 37 C.F.R. § 1.111(c) to consider these references fully when responding to this action. The documents cited therein teach alternative methods of key input.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian J Detwiler whose telephone number is 703-305-3986. The examiner can normally be reached on Mon-Thu 8-5:30 and alternating Fridays 8-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John W Cabeca can be reached on 703-308-3116. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

bjd
3 October 2003


JOHN CABECA
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100